

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CITY MERCHANDISE INC.,

Plaintiff,

-against-

TIAN TIAN TRADING INC. & WEIWEI LIN,

Defendants.

USDC SDNY
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DATE FILED: 1/3/2024

1:19-cv-09649-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

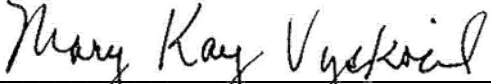
On August 23, 2023, the Court denied without prejudice Plaintiff's motion for default judgment as to both Defendants in this case due to Plaintiff's failure to properly serve Defendants with its motion for default judgment, all papers in support of that motion, and a copy of this Court's Order setting the hearing on the motion. [ECF No. 75]. The Court simultaneously denied Plaintiff's request for leave to serve Defendant Tian Tian Trading Inc. ("TTT") at the address listed in TTT's certificate of dissolution. [ECF No. 75]. The Court ordered that in any renewed request for leave to serve either Defendant, Plaintiff must provide the Court with legal authority indicating that the requested method of service is proper. [ECF No. 75]. On November 2, 2023, the Court issued an Order to Show Cause as to why the case should not be dismissed, ordering Plaintiff to detail its efforts to properly serve Defendants and the status and timing of any anticipated renewed request for leave to serve Defendants or renewed motion for default judgment. [ECF No. 76]. On November 9, 2023, Plaintiff responded to the Order to Show cause, advising the Court of its intent to serve Defendant TTT, a dissolved corporation, through the New York Secretary of State. [ECF No. 77]. The Court ordered Plaintiff to serve TTT and file proof of service by December 29, 2023. [ECF No. 78]. On December 22, 2023, Plaintiff filed an affidavit of such service on TTT. [ECF No. 79].

The Court's Order denying Plaintiff's initial motion for default judgment specified that its dismissal was without prejudice to renewal by formal motion once Defendants had been properly served. [ECF No. 75]. Accordingly, IT IS HEREBY ORDERED that, by January 17, 2024, Plaintiff shall file any renewed motion for default judgment as to Defendant TTT. IT IS FURTHER ORDERED that Plaintiff shall file, on the same date, any stipulation of voluntary dismissal as to Defendant Weiwei Lin, or, in the alternative, a letter showing cause why this case should not be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure as to Defendant Weiwei Lin. [See ECF No. 77 (detailing Plaintiff's inability to serve Lin)].

Plaintiff is on notice that it is ultimately responsible for prosecuting its case, and this case may be dismissed because of chosen counsel's failure to comply with court orders and prosecute this case. *See Link v. Wabash R. Co.*, 370 U.S. 626, 633–34 (1962).

SO ORDERED.

Date: January 3, 2024
New York, NY



MARY KAY VYSKOCIL
United States District Judge